



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 1309-99
4 June 1999

LTCO [REDACTED] USMC
[REDACTED] LAW

Dear Colonel [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 3 June 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by Headquarters Marine Corps, dated 16 April 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You contend that had you been advised that your submitting a rebuttal to your fitness report for 1 October 1987 to 6 June 1988 would cause your report to be marked by an asterisk on your Master Brief Sheet (MBS), you would not have made a rebuttal. You further contend that the asterisk, which indicates a fitness report was referred to the Marine concerned for a chance to make a statement, contributed to your failures by the Fiscal Year (FY) 1997 and 1998 Lieutenant Colonel Selection Boards. They did not agree that the asterisk harmed your chances for promotion. In this regard, they particularly noted that the asterisk did nothing to change the contents of your report to which it related. While they recognized that the asterisk may well have drawn attention to this report, they further observed that the low marks in the report would have caused it to stand out on your MBS in any event. Since they found an insufficient basis to remove your failures of selection for promotion, they found no grounds to change your lieutenant colonel date of rank and effective date to reflect your selection by the FY 1997 promotion board.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

1309-99

IN REPLY REFER TO:

1600
MMA-4
16 Apr 99

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Subj: BCNR PETITION FOR LIEUTENANT COLONEL [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
Lieutenant Colonel, [REDACTED]
[REDACTED] USMC of 15 Apr 99

1. Recommend disapproval of Lieutenant Colonel [REDACTED] petition to backdate his date of rank to lieutenant colonel.
2. Per the reference, we reviewed Lieutenant Colonel [REDACTED] record and petition. He failed selection on the FY97 and FY98 USMC Lieutenant Colonel Selection Boards. Subsequently, he was selected for lieutenant colonel on the FY99 USMC Lieutenant Colonel Selection Board from above the primary zone without altering the record. He requests backdating of his date of rank to lieutenant colonel.
3. In our opinion, all three boards were able to review and evaluate Lieutenant Colonel [REDACTED] record and decide whether it was the best and most fully qualified in relation to the other records considered by that particular board. Furthermore, being selected by the FY99 Board from above the primary zone does not imply that he did not receive a complete and fair evaluation by the FY97 and FY98 Boards. Therefore, we believe Lieutenant Colonel [REDACTED] petition is without merit and recommend disapproval of his petition to backdate his date of rank to lieutenant colonel.
4. Point of contact is Major [REDACTED]

[REDACTED]

Colonel, U. S. Marine Corps
Head, Officer Assignment Branch
Personnel Management Division